

**SUPREME COURT MINUTES
MONDAY, JUNE 7, 1999
LOS ANGELES, CALIFORNIA**

The Supreme Court of California convened in its courtroom in the Ronald Reagan State Office Building, Third Floor, South Tower, 300 South Spring Street, Los Angeles, California, on June 7, 1999, at 9:00 p.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Mosk, Kennard, Baxter, Werdegarr, Chin, and Brown.

Officers present: Robert F. Wandruff, Clerk and Harry Kinney, Bailiff.

S076784 Nancy Bramberg et al., Petitioners

v.

Bill Jones as Secretary of State, Respondent

Cause called. George Waters argued for Petitioners.

Leslie R. Lopez, Deputy Attorney General, argued for Respondent.

Mr. Waters replied.

Cause submitted.

S066747 Associated Builders and Contractors Inc. et al., Appellants

v.

San Francisco Airports Commission, Respondent

San Mateo County Building and Construction Trades,

Real Party in Interest

Cause called. Mark R. Thierman argued for Appellants.

Harold J. McElhinny argued for Respondent.

Sandra Rae Benson argued for Real Party in Interest.

Mr. Thierman replied.

Cause submitted.

S070960 People, Respondent

v.

Lester Kelii, Appellant

Cause called. Gary M. Mandinach, California Appellate Project, argued for Appellant.

Alan D. Tate, Deputy Attorney General, argued for Respondent.

Mr. Mandinach replied.

Cause submitted.

Court recessed until 1:30 p.m. this date.

Court reconvened pursuant to recess.

Members of the Court and Officers present as first shown.

S073975 Preferred Risk Mutual Insurance Company, Appellant

v.

Reo Reiswig et al., Respondents

Cause called. Edmund G. Farrell III opened argument for Appellant.

Randall B. Hamud, appearing for Amicus Curiae, continued argument for Appellant.

Mark B. Connely argued for Respondent.

Mr. Farrell replied.

Cause submitted.

S054125 People, Respondent

v.

Sherman Allen, Appellant

Cause called. Harvey L. Goldhammer opened argument for Appellant.

Michael S. Ogul, appearing for Amicus Curiae California Attorneys for Criminal Justice, continued argument for Appellant.

Scott Taryle, Deputy Attorney General, argued for Respondent.

Mr. Goldhammer replied.

Cause submitted.

S057126 Scott Company of California, Appellant
 v.
 Blount Incorporated, Appellant
 Cause called. Eliot S. Jubelirer argued for Appellant Blount.
 Jewell J. Hargleroad argued for Appellant Scott.
 Mr. Jubelirer replied.
 Cause submitted.

Court recessed until 9:00 a.m., Tuesday, June 8, 1999.

S029707 In re Armenia Levi Cudjo, Jr.
 on
 Habeas Corpus
 The order to show cause is discharged.

Kennard, J.

We Concur:
George, C.J.
Baxter, J.
Werdegar, J.
Chin, J.
Brown, J.

Dissenting Opinion by Mosk, J.

S029707 In re Armenia Levi Cudjo, Jr.
 on
 Habeas Corpus
 The petition for writ of habeas corpus, filed November 10, 1992,
 is denied. All claims are denied on the merits.
 Except where framed as allegations of ineffective assistance of
 counsel, or as attacks on the validity of the law under which
 petitioner was sentenced to death, the following claims are barred
 under *In re Waltreus* (1965) 62 Cal.2d 218 because they were raised
 and rejected on appeal: II(A) (exclusion of proposed testimony);
 II(C) (finding witness unavailable); II(D) (failure to grant

transactional immunity); II(E) (competence of child witness); II(F) (alleged appeal to racial prejudice); II(G) (admission of petitioner's prior conviction); II(H) (search of camper); II(I) (lack of sequestered voir dire); II(J) (cumulative prejudice, guilt phase); VI (admission of aggravating evidence); and IX (cumulative prejudice, penalty phase).

Except where framed as allegations of ineffective assistance of counsel, or as attacks on the validity of the law under which petitioner was sentenced to death, the following claims are barred under *In re Dixon* (1953) 41 Cal.2d 756 because they should have been raised on appeal: IV (penalty phase standard of proof); V (penalty phase burden of proof); VIII (automatic motion to modify penalty verdict); and IX (cumulative prejudice, penalty phase).

Except where framed as allegations of ineffective assistance of counsel, the following claim is also barred under *In re Sterling* (1965) 63 Cal.2d 486 because search and seizure issues are not cognizable on habeas corpus: II(H) (search of camper).

Mosk, J., would grant the petition.

Brown, J., would deny the petition solely on the merits.

S063446 People, Respondent

v.

Isabel Morante, Appellant

The time for granting or denying a rehearing in the above cause is hereby extended to and including August 15, 1999, or the date upon which a rehearing is either granted or denied, whichever occurs first.

S029384 People, Respondent

v.

Dannie Ray Hillhouse, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to and including August 3, 1999.

S074326 Geoffrey H. Palmer et al., Appellants

v.

Truck Insurance Exchange et al., Respondents

The application of Apple Computer, Inc. for permission to file an amicus curiae brief in support of appellants is hereby granted.

An answer thereto may be served and filed by any party within twenty days of the filing of the brief.

S074326 Geoffrey H. Palmer et al., Appellants

v.

Truck Insurance Exchange et al., Respondents

The application of The Travelers Indemnity Company for permission to file an amicus curiae brief in support of respondents is hereby granted.

An answer thereto may be served and filed by any party within twenty days of the filing of the brief.

S072196 In the Matter of Suspension of Attorneys

Pursuant to Rule 962, California Rules of Court

Michael Lynn Walton, #97947 was listed by the State Department of Social Services as being in arrears in payment of support obligations. He later obtained the necessary release from the appropriate District Attorney. He has subsequently been identified by the Department of Social Services as again being delinquent. Pursuant to Rule 962(a) of the California Rules of Court, IT IS **HEREBY ORDERED** that **Michael Lynn Walton** be suspended from membership in the State Bar of California and from the rights and privileges of an attorney to act from and after **July 7, 1999**.

IT IS **FURTHER ORDERED** that upon receipt by the State Bar of California of a release issued by the appropriate District Attorney pursuant to subdivision (1) of section 11350.6 of the Welfare and Institutions Code, the State Bar shall certify the fact of the receipt of such release to the Clerk of the Supreme Court and the suspension shall be terminated by order of this Court and he shall be fully restored to membership in the State Bar of California, and to all rights and privileges, duties and responsibilities incident thereto;

IT IS **FURTHER ORDERED** that until restored as above provided, he shall be precluded from practicing as an attorney at law, or an attorney or agent of another in and before all the courts, commissions and tribunals of this state, and from holding himself out to the public as an attorney or counsel at law.